

AG Contract No.: KR04-0032TRN
ADOT ECS File No.: JPA 03-112
TRACS No.: H 6241 03D
Project: Prince Road & I-10 TI
Budget Source Item No.: 10504

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF TUCSON

THIS AGREEMENT is entered into 17th of June, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF TUCSON, acting by and through its Mayor and City Council (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.
3. The City requests the State to design the railroad grade separation at Prince Road and the I-10 TI, hereinafter referred to as the "Project". The parties hereto agree that the City will be responsible for the cost estimated not to exceed \$993,500.00 and the State will design the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 26898
Filed with the Secretary of State
Date Filed: 06/17/04

Janice K. Brewer
Secretary of State

By: Timothy D. Graessewald

EX A TO RESOLUTION NO 19831
CITY OF TUCSON CONTRACT NO. 0351-04

II. SCOPE OF WORK

1 The State will:

a. Upon execution of this agreement, invoice the City in the amount of \$993,500.00 for the estimated costs of the Project and allow the State to pay actual design consultant contractor payments associated with the Project. Payment of the estimated amount will be due (30) days after receipt of an invoice from the State.

b. Provide design plans, specifications and other such documents and services required for construction bidding and construction. Incorporate or resolve City's review comments.

c. Monitor the cost of the design work, and notify the City in advance if the State anticipates that the amount of funding provided in this agreement will not be sufficient to complete the design work.

d. Notify the City in advance of extra compensation related to Project design modifications. Be responsible for any design consultant claims for extra attributable to the State.

e. Upon completion of the design work for the Project, provide the City with a recapitulation of the Project costs, along with an invoice or reimbursement, for the difference between the estimated amount paid by the City and the actual costs for the Project.

2 The City will:

a. Upon execution of the agreement and within 30 days after receipt of an invoice, remit to the State \$993,500.00 for the estimated costs of the Project.

b. Review the design plans, specifications and other such documents and provided comments as necessary. Be responsible for any design consultant claims for extra compensation attributable to the City.

c. Be notified in writing by the Project Manager prior to any additional design costs over the agreed amount referenced above.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of the work contemplated herein and reimbursements, may be cancelled with 30 days written notice to the other party, prior to advertisement of the Project.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

6. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

City of Tucson
City Manager
255 West Alameda
P.O. Box 27210
Tucson, AZ 85726-7210

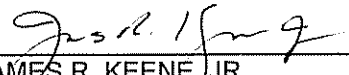
7. In accordance with Arizona Revised Statutes Section 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form

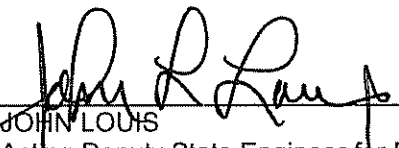
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written

CITY OF TUCSON


STATE OF ARIZONA

Department of Transportation

By 
JAMES R. KEENE, JR.
City Manager
MAY 24 2004

By 
JOHN LOUIS
Acting Deputy State Engineer for Development

ATTEST By:

By 
KATHLEEN S. DETRICK
City Clerk
MAY 24 2004

ADOPTED BY THE
MAYOR AND COUNCIL

MAY 24 2004

RESOLUTION NO. 19831

RELATING TO INTERGOVERNMENTAL AGREEMENTS; APPROVING AND
AUTHORIZING THE INTERGOVERNMENTAL AGREEMENT WITH THE
STATE OF ARIZONA FOR PLANNING AND ENGINEERING DESIGN OF
PRINCE ROAD AND INTERSTATE 10 TRAFFIC INTERCHANGE; AND
DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF
TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Intergovernmental Agreement with the State of Arizona
for the planning and engineering design of Prince Road and the Interstate 10 Traffic
Interchange, attached hereto as Exhibit A, is approved.

SECTION 2. The City Manager is hereby authorized and directed to
execute said Intergovernmental Agreement for and on behalf of the City of Tucson and
the City Clerk is directed to attest the same.

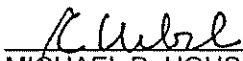
SECTION 3. The various City officers and employees are authorized and
directed to perform all acts necessary or desirable to give effect to this resolution.

SECTION 4. WHEREAS, it is necessary for the preservation of the
peace, health and safety of the City of Tucson that this resolution become immediately

APPROVAL FORM OF THE CITY OF TUCSON

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF TUCSON, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement

DATED this 12 day of April, 2004.



for MICHAEL D. HOUSE
City Attorney



TERRY GODDARD
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-0032TRN (**JPA 03-112**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 10, 2004

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED/mjf
Attachment
848499